

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

<p>HOWELL DEAN O'BRYAN, JR.,</p> <p style="text-align: center;">Petitioner,</p> <p style="text-align: center;">v.</p> <p>J.W. COX, in his capacity as Warden of Yankton Federal Prison Camp,</p> <p style="text-align: center;">Respondent.</p>	<p style="text-align: right;">4:21-cv-04052-LLP</p> <p style="text-align: center;">RESPONDENT'S RESPONSE TO COURT'S ORDER SEEKING ADDITIONAL INFORMATION</p>
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Comes now Respondent, by and through undersigned counsel, to provide the Court with the additional information requested in its Order. Docket 32. Petitioner has completed his degree-seeking program, thereby earning two Associates degrees. See Second Declaration of Jill Sternhagen ("Second Sternhagen Decl.") at ¶ 4. In accordance with BOP policy, Petitioner is not eligible to earn 200 FSA credits for each Associates degree. Id. Rather, Petitioner was eligible for and has earned a total of 200 EBRR program credits for completing the Associates degree program. Id. This equates to an additional 12.5 days of FSA earned time credits. Id.

As noted in Ms. Sternhagen's first declaration, Petitioner completed the RDAP Program on March 11, 2020, to address his Cognitions and Substance Abuse needs. Second Sternhagen Decl. at ¶ 5; see also Docket 16. By completing this program, Petitioner has earned 500 EBRR program credits. Id. at ¶ 5. Per 18 U.S.C. §3621(e), the BOP may consider an inmate for up to one year early release upon successful completion of the RDAP Program. BOP Program Statement 5331, Early Release Procedures Under 18 U.S.C. §3621(e), a true and correct copy of which is attached as Exhibit A to the Second Declaration of Jill Sternhagen. This Statement provides the criteria for determining which inmates are eligible for early release upon completion of the RDAP

Program. Id. Petitioner was assessed and determined to be ineligible for early release due to his current offense conviction. See BOP Form BP-AO942, a true and correct copy of which is attached as Exhibit B to the Second Declaration of Jill Sternhagen.

Dated this 13th day of August, 2021.

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